

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James R. and Mandi A. Irlbeck

Petitioners-Appellants,

v.

Pottawattamie County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 09-78-0714

Parcel No. 43 065 146 773909 129 009*

*New Parcel No. 7739 09 129 009

On December 21, 2009, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellants, James and Mandi Irlbeck, requested their appeal be considered without hearing. They are self represented. The Pottawattamie County Board of Review designated Assistant County Attorney Leanne Gifford as its legal representative. The Appeal Board having reviewed the record and being fully advised, finds:

Findings of Fact

James R. and Mandi A. Irlbeck (Irlbeck's) protested to the Pottawattamie County Board of Review regarding their property located at 102 West Wood Street, Avoca, Iowa. The 2009 residential assessment was \$170,000, representing \$35,600 attributed to the land and \$134,400 attributed to the improvements. The subject improvements include a one-story residence built in 1979 with 1320 square feet of above grade living area; 850 square feet of basement finish; and a two-car attached garage. The subject site is 1.57 acres.

On their protest form to the Board of Review, the Irlbeck's marked the ground indicating they believed the assessment is not equitable under Iowa Code section 441.37(1)(a). However, the Irlbeck's

also plainly stated in an attached letter to the Board of Review their property is “very excessively assessed” or assessed for more than the value authorized by law under section 441.37(1)(b).

The Board of Review left the 2009 value unchanged.

The Irlbecks then appealed to this Board. They again assert that the parcel’s assessment is not equitable when compared to the assessments of like property in the area. Additionally, they supplied sales of other properties in Avoca to support their belief that the parcel is over assessed. They seek relief of \$36,000.

To prove inequity in the assessment, the Irlbecks provided a list of five properties in Avoca they consider comparable. The list included the parcel number, property owner, assessed value, and assessed dollar-per-finished-area for each of the parcels. They also provided pictures and a summary printout of the property record card for each parcel. The summary printout of the property record card included year built; above grade gross living area; basement finish; garage size and site size. Although this information contains elements of comparison, it is not enough for this Board to determine the property was inequitably assessed.

The Irlbecks also presented a list of seven sales located in Avoca between August 2008 and March 2009 to support their claim that the property is over-assessed. The Irlbecks assert these sales demonstrate residential properties in Avoca have low market values. Again, we have difficulty determining these properties are indeed comparable to the subject property. Nor were the asserted comparables adjusted to consider differences and show a final opinion of market value for the subject property.

Pottawattamie County Board of Review submitted the property cards for the subject property and the parcels originally presented by the Irlbecks as equity comparables. No additional evidence was submitted. The Board of Review claims the properties supplied by the Irlbecks as equity comparables are one to ten years older than the subject property, and two of those properties have newer additions.

The Board of Review's primary argument is based on the fact that sales information is provided for only one property, and that the market values for the remaining four properties, as well as the subject, are not provided. As such, they believe no market value to assessment value ratios can be calculated. We agree with this contention.

Based upon the foregoing, we find the Irlbecks have provided insufficient evidence to prove that the assessment is not equitable or that the property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). While the Irlbecks presented five properties they

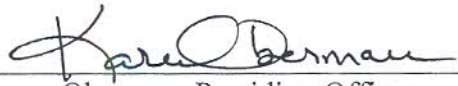
contend to be equity comparables, they failed to demonstrate these properties are in fact comparable. Additionally they failed to demonstrate the market values of each property, including the subject property to determine the assessed value to market value ratios. Nor is there evidence the assessor did not apply an assessing method uniformly.

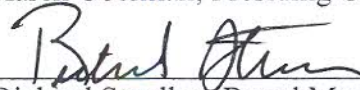
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In *Riley v. Iowa City Bd. of Review*, 549 N.W. 2d 289, 290 (Iowa 1996), the Court determined that, "It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value."

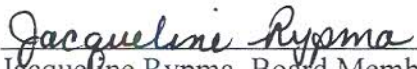
The Irlbecks offered seven sales in the Avoca area between August 2008 and March 2009; however, there is insufficient information to determine whether these properties are comparable to the subject property. Nor is there any consideration or adjustments for differences between these properties and the subject, which would reconcile to an opinion of market value.

THE APPEAL BOARD ORDERS the assessment of The Irlbecks' property known by the county assessor's office parcel number 7739 09 129 009 and set by the Pottawattamie County Board of Review of \$170,000, as of January 1, 2009, is affirmed.

Dated this 20 day of January, 2010


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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| Certificate of Service | |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-30</u> , 2010 | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX |
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| Signature |  |